

**A CERTIFIED TRUE COPY**

OCT 21 2005

ATTEST:  
FOR THE JUDICIAL PANEL ON  
MULTIDISTRICT LITIGATION

FILED

OCT 27 2005  
*JDR*LORETTA G. WHYTE  
CLERKJUDICIAL PANEL ON  
MULTIDISTRICT LITIGATION

OCT 21 2005

FILED  
CLERK'S OFFICE**BEFORE THE JUDICIAL PANEL ON MULTIDISTRICT LITIGATION****IN RE VIOXX PRODUCTS LIABILITY LITIGATION****BEFORE WM. TERRELL HODGES, CHAIRMAN, JOHN F. KEENAN, D. LOWELL JENSEN, J. FREDERICK MOTZ,\* ROBERT L. MILLER, JR., KATHRYN H. VRATIL AND DAVID R. HANSEN, JUDGES OF THE PANEL****TRANSFER ORDER**

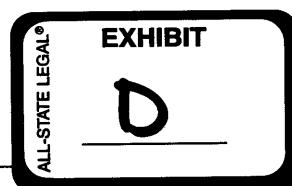
Presently before the Panel are motions, pursuant to Rule 7.4, R.P.J.P.M.L., 199 F.R.D. 425, 435-36 (2001), by the health care defendant in the Southern Texas action and plaintiffs in the remaining 47 actions listed on Schedule A to vacate the Panel's orders conditionally transferring the actions to the Eastern District of Louisiana for inclusion in the Section 1407 proceedings occurring there in this docket. Merck & Co., Inc., favors inclusion of these actions in MDL-1657 proceedings.

On the basis of the papers filed and hearing session held, the Panel finds that these actions involve common questions of fact with actions in this litigation previously transferred to the Eastern District of Louisiana. Transfer of the actions to that district for inclusion in the coordinated or consolidated pretrial proceedings occurring there will serve the convenience of the parties and witnesses and promote the just and efficient conduct of this litigation. Any pending motions to remand to state court can be presented to and decided by the transferee judge. *See, e.g., In re Ivy*, 901 F.2d 7 (2d Cir. 1990); *In re Prudential Insurance Company of America Sales Practices Litigation*, 170 F.Supp.2d 1346, 1347-48 (J.P.M.L. 2001). The Panel further finds that transfer of these actions is appropriate for the reasons expressed in the original order directing centralization in this docket. In that order, the Panel held that the Eastern District of Louisiana was a proper Section 1407 forum for actions involving claims of liability for allegedly adverse effects arising from the ingestion of Vioxx. *See In re Vioxx Products Liability Litigation*, 360 F.Supp.2d 1352 (J.P.M.L. 2005).

To the North Carolina plaintiff who argues that he does not have the resources to litigate his claims in the Eastern District of Louisiana and to the health care defendant in the Southern Texas action who argues that it is not proper to split the Texas action into multiple pretrial proceedings, we emphasize that since Section 1407 transfer is for pretrial proceedings, there is usually no need for the parties and witnesses to travel to the transferee districts for depositions or otherwise. *See, e.g., Fed.R.Civ.P. 45(c)(3)(A)*. Furthermore, the judicious use of liaison counsel, lead counsel and steering

\* Judge Motz took no part in the decision of this matter.

Fee \_\_\_\_\_  
Process \_\_\_\_\_  
 Dated \_\_\_\_\_  
CtRmDep \_\_\_\_\_  
Doc. No. \_\_\_\_\_



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committees will eliminate the need for most counsel ever to travel to the transferee districts. And it is logical to assume that prudent counsel will combine their forces and apportion their workload in order to streamline the efforts of the parties and witnesses, their counsel and the judiciary. This streamlined proceedings will foreseeably lead to an overall savings in transaction costs. See *In re Asbestos Products Liability Litigation (No. VI)*, 771 F.Supp. 415, 422 (J.P.M.L. 1991).

IT IS THEREFORE ORDERED that, pursuant to 28 U.S.C. § 1407, these actions are transferred to the Eastern District of Louisiana and, with the consent of that court, assigned to the Honorable Eldon E. Fallon for inclusion in the coordinated or consolidated pretrial proceedings occurring there in this docket.

IT FURTHER ORDERED that the claims against Pfizer Inc. (Pfizer) and the physician defendant in *Santos Villarreal Layton v. Dario Arango, M.D., et al.*, S.D. Texas, C.A. No. 7:05-149, relating to Pfizer's Celebrex prescription medication are separated and remanded, pursuant to 28 U.S.C. § 1407(a), to the Southern District of Texas.

FOR THE PANEL:

Wm. Terrell Hodges

Wm. Terrell Hodges  
Chairman

**SCHEDULE A****MDL-1657 -- In re Vioxx Products Liability Litigation**

	EDLA SEC. L/3
<u>Southern District of California</u>	
<i>Alvin Williams v. Merck &amp; Co., Inc., et al.</i> , C.A. No. 3:05-943	05-5272
<i>Margaret Stein v. Merck &amp; Co., Inc., et al.</i> , C.A. No. 3:05-944	05-5273
<i>Otis Anderson v. Merck &amp; Co., Inc., et al.</i> , C.A. No. 3:05-945	05-5274
<i>Joan Ongley v. Merck &amp; Co., Inc., et al.</i> , C.A. No. 3:05-947	05-5275
<i>Hilda Armenta v. Merck &amp; Co., Inc., et al.</i> , C.A. No. 3:05-948	05-5276
<i>Robert Levesque v. Merck &amp; Co., Inc., et al.</i> , C.A. No. 3:05-949	05-5277
<i>Clancy Lucille Holloway v. Merck &amp; Co., Inc., et al.</i> , C.A. No. 3:05-950	05-5278
<i>Laura Martinez v. Merck &amp; Co., Inc., et al.</i> , C.A. No. 3:05-951	05-5279
<i>Clarice Forbes v. Merck &amp; Co., Inc., et al.</i> , C.A. No. 3:05-953	05-5280
<i>Robert Castro v. Merck &amp; Co., Inc., et al.</i> , C.A. No. 3:05-954	05-5281
<i>Joseph Capozzi v. Merck &amp; Co., Inc., et al.</i> , C.A. No. 3:05-957	05-5282
<i>Anna Lemmons v. Merck &amp; Co., Inc., et al.</i> , C.A. No. 3:05-958	05-5283
<i>Richard Brown v. Merck &amp; Co., Inc., et al.</i> , C.A. No. 3:05-959	05-5284
<i>Aida Hernandez v. Merck &amp; Co., Inc., et al.</i> , C.A. No. 3:05-960	05-5285
<i>Harvey Persh v. Merck &amp; Co., Inc., et al.</i> , C.A. No. 3:05-961	05-5286
<i>Robert Scott v. Merck &amp; Co., Inc., et al.</i> , C.A. No. 3:05-962	05-5287
<i>Violet Abramson v. Merck &amp; Co., Inc., et al.</i> , C.A. No. 3:05-963	05-5288
<i>Carmen Esquer v. Merck &amp; Co., Inc., et al.</i> , C.A. No. 3:05-964	05-5289
<u>Southern District of Illinois</u>	
<i>Rosie-May Spann v. Merck &amp; Co., Inc., et al.</i> , C.A. No. 3:05-315	05-5290
<i>James Steele, Jr., et al. v. Merck &amp; Co., Inc., et al.</i> , C.A. No. 3:05-339	05-5291
<i>Greg Miller, et al. v. Merck &amp; Co., Inc., et al.</i> , C.A. No. 3:05-361	05-5292
<i>Wilma Gaston, et al. v. Merck &amp; Co., Inc., et al.</i> , C.A. No. 3:05-362	05-5293
<i>John Allen, et al. v. Merck &amp; Co., Inc., et al.</i> , C.A. No. 3:05-377	05-5294
<u>Western District of Kentucky</u>	
<i>William Andrew Curl, et al. v. Merck &amp; Co., Inc., et al.</i> , C.A. No. 3:05-324	05-5295
<i>Brenda Cox, et al. v. Merck &amp; Co., Inc., et al.</i> , C.A. No. 3:05-332	05-5296
<i>Patrick Wayne Overall, et al. v. Merck &amp; Co., Inc., et al.</i> , C.A. No. 3:05-331	05-5297
<i>James Goodman v. Merck &amp; Co., Inc., et al.</i> , C.A. No. 3:05-334	05-5298
<i>Steven Clark v. Merck &amp; Co., Inc., et al.</i> , C.A. No. 3:05-335	05-5299
<u>Eastern District of Missouri</u>	
<i>Dorothy Ganser, et al. v. Merck &amp; Co., Inc., et al.</i> , C.A. No. 4:05-557	05-5300
<i>Letty Bess, et al. v. Merck &amp; Co., Inc., et al.</i> , C.A. No. 4:05-568	05-5301
<i>Arthur Mullins, et al. v. Merck &amp; Co., Inc., et al.</i> , C.A. No. 4:05-569	05-5302
<i>Dorothy Kassing, et al. v. Merck &amp; Co., Inc., et al.</i> , C.A. No. 4:05-631	05-5303
<i>Shirley Zook, et al. v. Merck &amp; Co., Inc., et al.</i> , C.A. No. 4:05-632	05-5304
<i>Andrew Kisty, et al. v. Merck &amp; Co., Inc., et al.</i> , C.A. No. 4:05-665	05-5305

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EDLA  
SEC. L/3

Eastern District of Missouri (Continued)

<i>Virginia Kell, et al. v. Merck &amp; Co., Inc., et al.</i> , C.A. No. 4:05-666	05-5306
<i>Mary Benson, et al. v. Merck &amp; Co., Inc., et al.</i> , C.A. No. 4:05-668	05-5307
<i>Earlie Douglas, et al. v. Merck &amp; Co., Inc., et al.</i> , C.A. No. 4:05-669	05-5308
<i>Ricardo Lara, et al. v. Merck &amp; Co., Inc., et al.</i> , C.A. No. 4:05-671	05-5309
<i>Loretta Trinidad, et al. v. Merck &amp; Co., Inc., et al.</i> , C.A. No. 4:05-673	05-5310
<i>David Moultrie, et al. v. Merck &amp; Co., Inc., et al.</i> , C.A. No. 4:05-674	05-5311
<i>Irene Rogers, et al. v. Merck &amp; Co., Inc., et al.</i> , C.A. No. 4:05-675	05-5312
<i>Charlotte Bohlke, et al. v. Merck &amp; Co., Inc., et al.</i> , C.A. No. 4:05-837	05-5313

Middle District of North Carolina

<i>Jimmy Reid v. Merck &amp; Co., Inc.</i> , C.A. No. 1:05-348	05-5314
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Eastern District of Texas

<i>Elfriede Blacketer v. Merck &amp; Co., Inc., et al.</i> , C.A. No. 1:05-336	05-5315
<i>Walter Maddox v. Merck &amp; Co., Inc., et al.</i> , C.A. No. 1:05-338	05-5316

Southern District of Texas

<i>Santos Villarreal Layton v. Dario Arango, M.D., et al.</i> , C.A. No. 7:05-149	05-5317
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Western District of Washington

<i>Robert K. Waitt v. Merck &amp; Co., Inc., et al.</i> , C.A. No. 2:05-759	05-5318
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Northern District of West Virginia

<i>Shelia Dalgo v. Merck &amp; Co., Inc.</i> , C.A. No. 5:05-48	05-5319
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JUDICIAL PANEL ON MULTIDISTRICT LITIGATION**

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United States District Court  
Middle District of Florida

**MEMBERS:**

Judge John F. Keenan  
United States District Court  
Southern District of New York

Judge D. Lowell Jensen  
United States District Court  
Northern District of California

Judge J. Frederick Motz  
United States District Court  
District of Maryland

Judge Robert L. Miller, Jr.  
United States District Court  
Northern District of Indiana

Judge Kathryn H. Vratil  
United States District Court  
District of Kansas

Judge David R. Hansen  
United States Court of Appeals  
Eighth Circuit

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October 21, 2005

Loretta G. Whyte, Clerk  
U.S. District Court  
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Re: MDL-1657 -- In re Vioxx Products Liability Litigation

(See Attached Schedule A of Order)

Dear Ms. Whyte:

I am enclosing a certified copy and one additional copy of a transfer order filed today by the Panel in the above-captioned matter. The order is directed to you for filing.

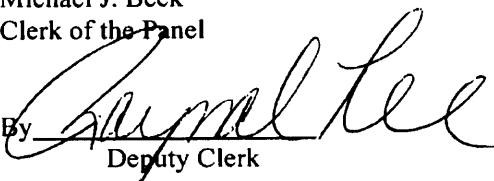
The Panel's governing statute, 28 U.S.C. §1407, requires that the transferee clerk "...transmit a certified copy of the Panel's order to transfer to the clerk of the district court from which the action is being transferred."

**The Panel has ordered that its Rule 1.6(a), pertaining to transfer of files, be suspended for purposes of this litigation. Accordingly, the transferee district clerk shall request, and the transferor district clerk shall forward, only those files deemed necessary by the transferee district court.**

A list of involved counsel is attached.

Very truly,

Michael J. Beck  
Clerk of the Panel

By   
Deputy Clerk

Enclosures/Attachment

cc: Transferee Judge: Judge Eldon E. Fallon  
Transferor Judges: (See Attached List of Judges)  
Transferor Clerks: (See Attached List of Clerks)

JPML Form 29A